

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

In Re:
PHARMACEUTICAL INDUSTRY) CA No. 01-12257-PBS
AVERAGE WHOLESALE PRICE) MDL No. 1456
LITIGATION) Pages 1 - 51

STATUS CONFERENCE

BEFORE THE HONORABLE PATTI B. SARIS
UNITED STATES DISTRICT JUDGE

United States District Court
1 Courthouse Way, Courtroom 19
Boston, Massachusetts
May 16, 2007, 10:05 a.m.

LEE A. MARZILLI
OFFICIAL COURT REPORTER
United States District Court
1 Courthouse Way, Room 3205
Boston, MA 02210
(617)345-6787

1 THE COURT: And somebody else's is 10 cents.

2 MR. CROSS: Yes. It's my --

3 THE COURT: Wouldn't you at least be liable for the
4 20 cents?

5 MR. CROSS: No, because if Mylan's published price
6 is 30 cents, everybody in the industry gets reimbursed at
7 30 cents. Well, 30 cents plus --

8 THE COURT: No, you're theory is that somebody else
9 out there, X-Y-Z, is 10 cents and --

10 MR. CROSS: No. The FUL is set on the lowest price
11 published in any compendia for any manufacturer, and every
12 drug company that makes that drug gets reimbursed at that
13 level.

14 THE COURT: But you're saying, if everyone lies,
15 everyone's off the hook?

16 MR. CROSS: No. The people who set the FUL. She
17 has to plead who set the FUL. If my client didn't set the
18 FUL because my WAC was higher than Mylan's WAC, I've got
19 nothing to do with that transaction.

20 THE COURT: Unless you lied.

21 MR. CROSS: No. I had nothing to do with that
22 transaction. Nobody --

23 THE COURT: Can I say this: That's a perfect issue
24 to vet up in a motion to dismiss. If you pleaded out your
25 theory, we can do this as a matter of law; you plead out your

EXHIBIT B

Addanki, Sumanth - Vol. I CONFIDENTIAL
New York, NY

November 20, 2008

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
- - - - -
In re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION
- - - - -
THIS DOCUMENT RELATES TO:

MDL No.1456
CITY OF NEW YORK, et al., Master File
v. No.01-12257-PBS
ABBOTT LABORATORIES, et al.

- - - - -
C O N F I D E N T I A L
November 20, 2008
9:04 a.m.

Videotaped deposition of SUMANTH
ADDANKI, taken by attorneys for Plaintiffs,
pursuant to notice, held at the offices of Ropes
& Gray LLP, 1211 Avenue of the Americas, New
York, New York, before Helen Mitchell, a
Shorthand Reporter and Notary Public.

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New York, NY

November 20, 2008

8 (Pages 26 to 29)

<p style="text-align: right;">26</p> <p>1 researchers that works on these -- on all my 2 assignments with me, and they would have got the 3 data, made sure they understood the data, and 4 then done the calculations, made the tables, and 5 I wrote the affidavit.</p> <p>6 Q And what calculations were you 7 asked to conduct?</p> <p>8 A Really, exactly what's set forth 9 in -- under B on page 2, starting "on behalf" on 10 page 2, calculate the spread between the AMP and 11 the AWP, and calculate the percent of sales made 12 near WAC.</p> <p>13 THE WITNESS: This case is an 14 alphabet soup.</p> <p>15 THE COURT REPORTER: Got it.</p> <p>16 Q And who identified the data that 17 you would need in order to perform the 18 calculations you'd been asked to do?</p> <p>19 A I did.</p> <p>20 Q And how did you -- how did you 21 know what data to ask for?</p> <p>22 A Because if I'm going to calculate</p>	<p style="text-align: right;">28</p> <p>1 A Yes, I did. 2 Q Were you provided with a single 3 set of AMPs by Schering Plough? 4 A Yes, they sent the AMPs that they 5 had on file at the time. 6 Q And do you know how Schering 7 calculates its AMPs? 8 A The specific steps that they take? 9 Q Yes. 10 A No. I just know generally how 11 AMPs are calculated. 12 Q Describe for me, please, what you 13 know in terms of how Schering calculates its 14 AMPs. 15 A All I know is how AMPs are 16 generally calculated, which is that they are 17 meant to represent, and are calculated so as to 18 represent, the price obtained by the 19 manufacturer on the sales that it makes to the 20 AMP-related classes of trade, which are, broadly 21 speaking, the classes of trade which end up 22 dispensing product that Medicaid might</p>
<p style="text-align: right;">27</p> <p>1 a spread between AMPs and AWPs, it's fairly 2 clear what the ingredients to that calculation 3 would be, that's the AWPs and the AMPs. 4 And as far as the percent of sales 5 made near WAC, at or near WAC, is concerned, I 6 had done that kind of exercise for at least some 7 of these products in connection with the MDL, 8 and so I knew what data I would need for that. 9 Q And when you say "AMP" you're 10 referring to average manufacturer's price? 11 A Yes. 12 Q And AMP is something that Schering 13 is required to calculate by federal law. 14 Do you understand that? 15 A Yes. 16 Q Do you have any involvement in the 17 calculation of AMP for Schering Plough? 18 A I do not. 19 Q So you simply asked Schering to 20 provide you with the AMPs you would need in 21 order to -- to calculate the AMP/AWP spreads 22 that are set forth in your declaration?</p>	<p style="text-align: right;">29</p> <p>1 reimburse. And these prices are calculated net 2 of discounts, but before PBM rebates. 3 And that's my understanding of how 4 Schering does it. 5 Q What does AMP stand for? 6 A Average manufacturer price. 7 Q And do you know how often Schering 8 reports AMPs to the federal government? 9 A They're reported quarterly, and 10 they're updated periodically. I'm not quite 11 sure exactly how frequently. 12 Q And do you know specifically which 13 classes of trade Schering -- which class of 14 trade prices Schering includes when it 15 calculates its AMPs? 16 A Again, they're, broadly speaking, 17 the AMP-related classes of trade, which would be 18 classes of trade where you might expect drugs to 19 be dispensed that might be reimbursed by 20 Medicaid. And I could recall some of them, I 21 probably couldn't give you an exhaustive list. 22 Q If I could, may I direct your</p>

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44 (Pages 170 to 173)

<p>1 program?</p> <p>2 A That's right.</p> <p>3 Q Okay.</p> <p>4 Okay, let's move on to the next</p> <p>5 sentence of this third note.</p> <p>6 "If net revenue for a particular</p> <p>7 NDC and customer number for the prevailing WAC</p> <p>8 period was negative" -- and there you quantify</p> <p>9 that amount as negative 266.5 million.</p> <p>10 Do you see that?</p> <p>11 A I do.</p> <p>12 Q Can you -- let me read the whole</p> <p>13 sentence into the record.</p> <p>14 -- "266.5 million, or if the</p> <p>15 revenue or quantity before chargebacks or price</p> <p>16 paid were missing or otherwise non-positive</p> <p>17 (\$5.7 billion total), or if the WAC was not</p> <p>18 available (804.5 million total), it was</p> <p>19 dropped."</p> <p>20 I realize I didn't read that --</p> <p>21 all the numbers into the record, but this is in</p> <p>22 essence what the sentence says; correct?</p>	<p>170</p> <p>1 chargebacks that are owed at a particular time</p> <p>2 or that are paid at a particular time?</p> <p>3 A Occasionally you can have a</p> <p>4 situation where you have a WAC prevailing for a</p> <p>5 very short time, right, and it so happens during</p> <p>6 the period at which that WAC prevails, you don't</p> <p>7 have any originating sale transactions, you've</p> <p>8 only got adjustment, so that can be one reason</p> <p>9 why, you know. In a prevailing WAC period, you</p> <p>10 don't get a price.</p> <p>11 Q Now, let me ask you, do you have</p> <p>12 any sense of what portion of the 2.8 --</p> <p>13 MS. CICALA: I'm sorry.</p> <p>14 Q What portion of the \$28.8 billion</p> <p>15 of total sales are attributed to the class of</p> <p>16 trade that are relevant in this litigation?</p> <p>17 A I think you asked me that question</p> <p>18 before, and -- and I gave you a quick answer,</p> <p>19 which said it's going to be a pretty high</p> <p>20 percentage, but something less than a hundred.</p> <p>21 And the truth is, actually, I don't know</p> <p>22 because -- sorry, can we back up? You asked me</p>
<p>1 A Basically, yes.</p> <p>2 Q Now, I'd like to go through this</p> <p>3 sentence if you could bear with me.</p> <p>4 The prevailing WAC period, is it</p> <p>5 correct that that's the period of time for which</p> <p>6 a particular WAC was unchanged?</p> <p>7 A Yes, for a particular NDC eleven.</p> <p>8 Q Okay.</p> <p>9 And what do you mean when you say</p> <p>10 the net revenue for the prevailing WAC period</p> <p>11 was negative?</p> <p>12 A This basically happens when you've</p> <p>13 got an NDC that is being discontinued and you</p> <p>14 get a lot of returns with no sales transactions</p> <p>15 anymore, or tiny sales transactions and lots of</p> <p>16 returns. And so the net revenue is negative.</p> <p>17 Then you know that they're not actually selling</p> <p>18 product, to that customer at any rate, in that</p> <p>19 period.</p> <p>20 Q Are there other reasons why the</p> <p>21 net revenue for prevailing WAC period may be</p> <p>22 negative? For example, the payment of</p>	<p>171</p> <p>1 a different question.</p> <p>2 The answer to this question is</p> <p>3 it's going to be pretty high because of the</p> <p>4 classes of trade we're talking about there for</p> <p>5 sharing drugs amounts to a pretty substantial</p> <p>6 portion of their sales. I don't know</p> <p>7 specifically how big.</p> <p>8 Q Which classes of trade do you</p> <p>9 believe to be relevant for this litigation?</p> <p>10 A You know, let me go back.</p> <p>11 Was your question, earlier</p> <p>12 question, about what I felt is relevant to this</p> <p>13 litigation or what I felt was the ones I</p> <p>14 identified here?</p> <p>15 Q My question two moments ago is</p> <p>16 what portion of the 28.8 you felt was</p> <p>17 attributable to the relevant classes of trade.</p> <p>18 A Okay, I'm sorry, when you say</p> <p>19 "relevant" I thought you were using that as</p> <p>20 shorthand for what I call the AMP-related</p> <p>21 classes of trade here.</p> <p>22 Q No.</p>

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45 (Pages 174 to 177)

<p>174</p> <p>1 A Okay. 2 In that case, I have not thought 3 with any -- I have not reached any conclusion of 4 what's relevant in terms of classes of trade for 5 this particular litigation. 6 I apologize, I thought we were 7 talking about what was in my note here. 8 Q That's fine, I appreciate the 9 clarification. 10 So then is it fair to say that you 11 don't know if the -- if your AMP-related classes 12 of trade represent the relevant classes for this 13 case or not? You don't know one way or the 14 other? 15 A I have not looked into whether -- 16 what New York counties are alleging here 17 would -- creating a limitation or expansion of 18 the classes of trade that would be relevant. 19 Q Okay. 20 Returning to your third note in 21 Exhibit 4 to your declaration, the sentence -- 22 we just discussed the phrase "prevailing WAC</p>	<p>176</p> <p>1 think about chargebacks or anything else are 2 missing, or non-positive, negative, or zero, 3 which amounts to only \$5.7 million, so it's a 4 pretty small adjustment, that particular item 5 was just dropped. 6 I think when you read it earlier 7 you read it as 5.7 billion because of all the 8 digits that my researchers insist on putting in 9 there. It's only 5.7 million there. 10 Q Thank you. 11 When you're calculating -- when 12 you're conducting this evaluation of percentage 13 of sales close to WAC, you're not -- you're not 14 only considering the sales to the wholesalers, 15 right, you're reviewing sales to all classes of 16 trade? 17 A Absolutely. 18 Q And it's fair to say that the -- 19 that the figures that we see in this third 20 bullet, the 266 million, the 5.7 million, the 21 804 million, also refer to amounts associated 22 with sales to all classes of trade, not just</p>
<p>175</p> <p>1 period was negative." I'm moving on now to -- 2 to that portion of the sentence that reads, "or 3 if the revenue or quantity before chargebacks or 4 price paid were missing or otherwise 5 non-positive." 6 I'm creating a messy record, so 7 let me start from the top again, please. 8 According to this note, if net 9 revenue for a particular NDC and customer 10 number -- 11 MS. CICALA: Let me try it this 12 way. 13 Q When you say, "if the revenue or 14 quantity before chargebacks or price paid were 15 missing or otherwise non-positive was dropped," 16 what does that mean? 17 A What I mean is that, again, 18 looking at the asset, which is the eleven-digit 19 NDC and customer number during a prevailing WAC 20 period, if I look at all of the transactions for 21 that customer for that NDC for that period and 22 find that the revenue and quantity before I even</p>	<p>177</p> <p>1 transactions to the wholesaler? 2 A That's correct. 3 Q Okay. 4 The last part of this sentence 5 refers to WACs being unavailable. That's what 6 we discussed earlier, right, when the WAC 7 doesn't appear in the publisher -- in the 8 publishing compendia? 9 A That's correct. 10 Q Have you ever engaged in an 11 analysis of what the -- how Schering's average 12 sales price to wholesalers compares with its 13 reported WAC? 14 MR. MONTGOMERY: Ever? 15 A I believe that for the products 16 involved in the MDL, I did carry out 17 calculations of exactly that kind. 18 Q So it was a more narrow 19 computation of an average sales price, it was 20 just an average sales price to the wholesaler? 21 A That's correct. 22 Q That was in addition to the work</p>

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47 (Pages 182 to 185)

<p style="text-align: right;">182</p> <p>1 be of total sales?</p> <p>2 Q Yes. Thank you.</p> <p>3 A I haven't done that calculation.</p> <p>4 Q The next sentence reads,</p> <p>5 "Wholesale entries from the chargebacks data</p> <p>6 were matched with wholesale entries in the sales</p> <p>7 data by prevailing WAC."</p> <p>8 A Right.</p> <p>9 Q Can you explain that, please?</p> <p>10 A All that's really saying is that</p> <p>11 the wholesaler names that show up in the</p> <p>12 indirect sales, the chargeback data, are matched</p> <p>13 in to the wholesaler data on the direct sales</p> <p>14 side within the WAC period that we're talking</p> <p>15 about, you know, whatever particular WAC is</p> <p>16 prevailing.</p> <p>17 Q What do you mean when you say</p> <p>18 "wholesale entries"?</p> <p>19 A Transactions in the direct sales</p> <p>20 file that have a wholesaler as a customer, and</p> <p>21 transactions in the direct -- in the indirect</p> <p>22 sales file that talk about which wholesaler was</p>	<p style="text-align: right;">184</p> <p>1 WAC period, we do the chargeback match within a</p> <p>2 WAC period.</p> <p>3 Q Would it be correct to say that</p> <p>4 the program that was run on the data would</p> <p>5 reflect an instruction to do the chargeback to</p> <p>6 match the chargeback within the prevailing WAC</p> <p>7 period?</p> <p>8 A All the matching is done within</p> <p>9 the prevailing WAC period.</p> <p>10 Q Let's jump down now -- you'll be</p> <p>11 happy to hear -- to the bullet that begins with</p> <p>12 "ratios."</p> <p>13 "Ratios of average price to WAC</p> <p>14 were annualized to the customer and eleven-digit</p> <p>15 NDC level, weighting by gross sales activity in</p> <p>16 quantity."</p> <p>17 This statement reflects what we've</p> <p>18 discussed earlier, does it not, regarding --</p> <p>19 well, can you explain what that sentence means,</p> <p>20 please?</p> <p>21 A Sure.</p> <p>22 Again, you've got -- if you've</p>
<p style="text-align: right;">183</p> <p>1 involved.</p> <p>2 Q Okay, thank you.</p> <p>3 So -- so if a -- what if a</p> <p>4 chargeback was paid to a wholesaler after the</p> <p>5 WAC the wholesaler had initially paid had</p> <p>6 changed?</p> <p>7 A You -- if I remember right, one of</p> <p>8 the reasons we match within a period was --</p> <p>9 well, two reasons. When you go out of the</p> <p>10 period you don't know how far back you go in</p> <p>11 order to match transactions, so how many WACs do</p> <p>12 you skip in order to get a transaction match.</p> <p>13 And so recognizing that you're going to get a</p> <p>14 little bit -- that the borders are not going to</p> <p>15 line up exactly between the indirect and the</p> <p>16 direct, you accept where you can get true</p> <p>17 overlap and leave out the little bit on either</p> <p>18 side because, you know, you don't know how to</p> <p>19 match it because you don't know how far forward</p> <p>20 or back you're going to need to go to match.</p> <p>21 So just as we are calculating all</p> <p>22 of the adjustment entries within a prevailing</p>	<p style="text-align: right;">185</p> <p>1 got, for instance -- it's probably easiest to do</p> <p>2 it by example. If you've got a WAC that was in</p> <p>3 effect from July 1st of a year to June 30th the</p> <p>4 following year, just for example, and say that</p> <p>5 was 2000-2001, the prevailing WAC period is, if</p> <p>6 you will, 7 -- 7/00 through 6/01, and you've got</p> <p>7 customer transactions that you've identified and</p> <p>8 put into this bucket for that NDC eleven, but</p> <p>9 you're going to try to square that with a</p> <p>10 calendar year, the WAC didn't prevail for a</p> <p>11 calendar year. There was previous WAC for the</p> <p>12 first half of 2000, and this WAC for the second</p> <p>13 half of 2000, and in order to get a WAC that</p> <p>14 applies to 2000, right, or an analysis that</p> <p>15 applies to 2000, we used, again, the GSAs as</p> <p>16 weights in order to figure out what the 2000</p> <p>17 ratio of that customer's net price per unit was</p> <p>18 to the WAC.</p> <p>19 Q If you didn't -- if you didn't</p> <p>20 need to set forth your results on a calendar</p> <p>21 basis, that would not -- the inclusion of</p> <p>22 weighting would not be necessary then; is that</p>
<p style="text-align: right;">182</p> <p>1 be of total sales?</p> <p>2 Q Yes. Thank you.</p> <p>3 A I haven't done that calculation.</p> <p>4 Q The next sentence reads,</p> <p>5 "Wholesale entries from the chargebacks data</p> <p>6 were matched with wholesale entries in the sales</p> <p>7 data by prevailing WAC."</p> <p>8 A Right.</p> <p>9 Q Can you explain that, please?</p> <p>10 A All that's really saying is that</p> <p>11 the wholesaler names that show up in the</p> <p>12 indirect sales, the chargeback data, are matched</p> <p>13 in to the wholesaler data on the direct sales</p> <p>14 side within the WAC period that we're talking</p> <p>15 about, you know, whatever particular WAC is</p> <p>16 prevailing.</p> <p>17 Q What do you mean when you say</p> <p>18 "wholesale entries"?</p> <p>19 A Transactions in the direct sales</p> <p>20 file that have a wholesaler as a customer, and</p> <p>21 transactions in the direct -- in the indirect</p> <p>22 sales file that talk about which wholesaler was</p>	<p style="text-align: right;">184</p> <p>1 WAC period, we do the chargeback match within a</p> <p>2 WAC period.</p> <p>3 Q Would it be correct to say that</p> <p>4 the program that was run on the data would</p> <p>5 reflect an instruction to do the chargeback to</p> <p>6 match the chargeback within the prevailing WAC</p> <p>7 period?</p> <p>8 A All the matching is done within</p> <p>9 the prevailing WAC period.</p> <p>10 Q Let's jump down now -- you'll be</p> <p>11 happy to hear -- to the bullet that begins with</p> <p>12 "ratios."</p> <p>13 "Ratios of average price to WAC</p> <p>14 were annualized to the customer and eleven-digit</p> <p>15 NDC level, weighting by gross sales activity in</p> <p>16 quantity."</p> <p>17 This statement reflects what we've</p> <p>18 discussed earlier, does it not, regarding --</p> <p>19 well, can you explain what that sentence means,</p> <p>20 please?</p> <p>21 A Sure.</p> <p>22 Again, you've got -- if you've</p>
<p style="text-align: right;">183</p> <p>1 involved.</p> <p>2 Q Okay, thank you.</p> <p>3 So -- so if a -- what if a</p> <p>4 chargeback was paid to a wholesaler after the</p> <p>5 WAC the wholesaler had initially paid had</p> <p>6 changed?</p> <p>7 A You -- if I remember right, one of</p> <p>8 the reasons we match within a period was --</p> <p>9 well, two reasons. When you go out of the</p> <p>10 period you don't know how far back you go in</p> <p>11 order to match transactions, so how many WACs do</p> <p>12 you skip in order to get a transaction match.</p> <p>13 And so recognizing that you're going to get a</p> <p>14 little bit -- that the borders are not going to</p> <p>15 line up exactly between the indirect and the</p> <p>16 direct, you accept where you can get true</p> <p>17 overlap and leave out the little bit on either</p> <p>18 side because, you know, you don't know how to</p> <p>19 match it because you don't know how far forward</p> <p>20 or back you're going to need to go to match.</p> <p>21 So just as we are calculating all</p> <p>22 of the adjustment entries within a prevailing</p>	<p style="text-align: right;">185</p> <p>1 got, for instance -- it's probably easiest to do</p> <p>2 it by example. If you've got a WAC that was in</p> <p>3 effect from July 1st of a year to June 30th the</p> <p>4 following year, just for example, and say that</p> <p>5 was 2000-2001, the prevailing WAC period is, if</p> <p>6 you will, 7 -- 7/00 through 6/01, and you've got</p> <p>7 customer transactions that you've identified and</p> <p>8 put into this bucket for that NDC eleven, but</p> <p>9 you're going to try to square that with a</p> <p>10 calendar year, the WAC didn't prevail for a</p> <p>11 calendar year. There was previous WAC for the</p> <p>12 first half of 2000, and this WAC for the second</p> <p>13 half of 2000, and in order to get a WAC that</p> <p>14 applies to 2000, right, or an analysis that</p> <p>15 applies to 2000, we used, again, the GSAs as</p> <p>16 weights in order to figure out what the 2000</p> <p>17 ratio of that customer's net price per unit was</p> <p>18 to the WAC.</p> <p>19 Q If you didn't -- if you didn't</p> <p>20 need to set forth your results on a calendar</p> <p>21 basis, that would not -- the inclusion of</p> <p>22 weighting would not be necessary then; is that</p>

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EXHIBIT C

Addanki, Sumanth

April 22, 2009

New York, NY

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

----- -X
In re: PHARMACEUTICAL INDUSTRY) MDL No. 1456
AVERAGE WHOLESALE PRICE LITIGATION) Master File No.
----- -x 01-12257-PBS
THIS DOCUMENT RELATES TO:) Subcategory
THE CITY OF NEW YORK, et al.) Case No.
v.) 03-10643-PBS
ABBOTT LABORATORIES, et al.)
)
----- -X

April 22, 2009

9:10 a.m.

Videotaped deposition of SUMANTH ADDANKI,
taken by attorneys for Plaintiffs, pursuant to
notice, held at the offices of Ropes & Gray LLP,
1211 Avenue of the Americas, New York, New York,
before Helen Mitchell, a Shorthand Reporter and
Notary Public.

Addanki, Sumanth

April 22, 2009

New York, NY

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146	148
<p>1 participants have any relevance to the 2 relationships described in paragraph eleven?</p> <p>3 MR. PALERMO: Objection to the form.</p> <p>4 A. To the extent that I understand your 5 question, if you're asking whether this paragraph, 6 when I'm talking about AWP, is generally 7 understood to be greater than WAC, does that 8 relate in any way to the expectations that were at 9 issue in that case. Not really.</p> <p>10 I mean, I guess I'm having a little 11 difficulty with your question, because 12 expectations in the larger sense, these are 13 definitely among the expectations that people have 14 about pricing in the pharmaceutical industry.</p> <p>15 Q. And when you refer to these being among 16 the expectations, are you simply referring to the 17 fact that AWP is generally understood to be 18 greater than WAC?</p> <p>19 A. Yes. In this case, yes.</p> <p>20 Q. That, and only that, in this particular 21 paragraph?</p> <p>22 A. Yes.</p>	<p>1 Q. Well, there are true AWPs. 2 MR. BUEKER: Objection as to form. 3 MR. PALERMO: Objection.</p> <p>4 Q. Let me ask you a question. 5 You're aware that Mr. Devor has set 6 forth alternative calculations of AWPs for 13 7 defendants; right?</p> <p>8 A. He's calculated something which he calls 9 an AWP, that's correct. The Harris Devor AWP.</p> <p>10 Q. And among your criticisms of Mr. Devor 11 is that his calculated AWPs, as you put it, 12 frequently violate a relationship generally 13 understood to hold in the industry and that they 14 are -- they are -- they are lower than his 15 calculated WACs; is that right?</p> <p>16 A. For instance, they're lower than his 17 calculated WACs. That's an example, yes.</p> <p>18 Q. And Mr. Devor's work in this regard, 19 with regard to calculating AWP and calculating 20 WAC, is done without regard to what the 13 21 defendants published as their AWP and WAC; isn't 22 that right?</p>
147	149
<p>1 Well, it's for instance -- that's what 2 I'm referring to in the paragraph, absolutely, 3 that's correct.</p> <p>4 Q. And what is the basis for your statement 5 that such was the expectation in the industry?</p> <p>6 A. Well, to begin with, that's generally 7 true for published prices. Second, these 8 reference prices, just from the standpoint of 9 where they are in the distribution chain, just a 10 matter of simple economics tells us that a price 11 at the wholesaler to pharmacy level is going to be 12 higher than a price at the manufacturer to the 13 wholesaler level, because otherwise the 14 wholesaler's not going to stay in business very 15 long.</p> <p>16 Q. I notice in your answer you made 17 reference to published prices; correct? Published 18 -- so I'm assuming what you're saying now, the 19 published AWP is generally understood to be 20 greater than the published WAC; is that right?</p> <p>21 A. Well, I'm not sure there are any AWPs 22 that are not published AWPs.</p>	<p>1 MR. BUEKER: Objection as to form. 2 A. I don't know what you mean by "without 3 regard."</p> <p>4 Q. Mr. Devor was endeavoring to calculate 5 an accurate average wholesale price for the 13 6 defendants' products --</p> <p>7 MR. BUEKER: Objection --</p> <p>8 Q. -- correct?</p> <p>9 MR. PALERMO: Objection.</p> <p>10 MR. BUEKER: -- to form, and calls for 11 speculation.</p> <p>12 A. I haven't the slightest idea what he was 13 endeavoring to do.</p> <p>14 Q. You have no understanding of what Mr. 15 Devor was endeavoring to do with his calculations?</p> <p>16 A. I've read his report, I know what he 17 said he did, but I don't know what he was trying 18 to do. I can't get into his head.</p> <p>19 Q. Is it -- is it your testimony that Mr. 20 Devor's report does not explain what he was 21 endeavoring to do?</p> <p>22 A. That's not my testimony.</p>

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New York, NY

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<p style="text-align: right;">150</p> <p>1 Q. What is your understanding of what Mr. 2 Devor's -- Mr. Devor was endeavoring to do using 3 defendants' sales and transactional data?</p> <p>4 MR. BUEKER: Objection as to the form of 5 the question.</p> <p>6 A. I don't know why you keep saying 7 "endeavoring." I mean, I see that he's made some 8 calculations, and that he calls them a WAC and an 9 AWP. But beyond that, I can't speculate as to 10 what he -- what he was doing.</p> <p>11 Q. Okay.</p> <p>12 And he made those calculations using 13 defendants' own sales and transactional data; 14 correct?</p> <p>15 A. That's what he says.</p> <p>16 Q. Do you doubt that that's so?</p> <p>17 A. I haven't checked. I haven't verified 18 whether he has in fact done exactly what the 19 calculations already said he did.</p> <p>20 Q. Instead you reviewed his conclusions, 21 correct, and you've evaluated them against 22 industry standards; isn't that right?</p>	<p style="text-align: right;">152</p> <p>1 A. I don't think I understand your 2 question.</p> <p>3 Q. You -- your report states that Mr. 4 Devor's calculated WACs and AWPs violate 5 relationships generally understood to hold in the 6 industry; correct?</p> <p>7 A. Yes.</p> <p>8 Q. If you -- if you were to accept Mr. 9 Devor's definition of WAC as a net price, as 10 opposed to a list price, would you, Dr. Addanki, 11 be able to use defendants' own data to calculate 12 that net price?</p> <p>13 MR. BUEKER: Objection as to form.</p> <p>14 A. Putting aside Mr. Devor's 15 characterization of anything, if one wanted to 16 calculate a net price, one could do it from 17 transactions data, yes. Assuming that one had all 18 the data needed.</p> <p>19 Q. Now, you've testified that you don't 20 agree with the proposition that WAC is a net 21 price; correct?</p> <p>22 A. That it's not understood to be that in</p>
<p style="text-align: right;">151</p> <p>1 MR. BUEKER: Object to form.</p> <p>2 A. I've reviewed his results --</p> <p>3 Q. His results, right.</p> <p>4 A. Yes.</p> <p>5 Q. And you criticized them as they -- you 6 criticize them based on industry standards, or how 7 they don't reflect industry standards; isn't that 8 correct?</p> <p>9 A. I have a whole section in my report that 10 contains my opinions on his calculations. I don't 11 think I'd like to agree with the characterization 12 that you just made. That is simply one of them.</p> <p>13 Q. Well, you certainly don't offer 14 alternative calculations to Mr. Devor's correct?</p> <p>15 A. That's correct.</p> <p>16 Q. Nor do you -- well, let me ask it this 17 way.</p> <p>18 What data from the 13 defendants did you 19 evaluate to determine if their -- if their pricing 20 was consistent with the industry standards that 21 you refer to in your report?</p> <p>22 MR. BUEKER: Objection as to form.</p>	<p style="text-align: right;">153</p> <p>1 the industry, that's correct.</p> <p>2 Q. Right. I understand that that is your 3 testimony.</p> <p>4 Have you determined what any of the 13 5 defendants' WACs would be if they were calculated 6 to be net prices?</p> <p>7 MR. PALERMO: Objection to the form.</p> <p>8 A. As far as I can tell, you are asking me 9 if I have calculated the defendants' net prices, 10 and I have not.</p> <p>11 Q. Now, you are aware, are you not, that 12 certain defendants pay -- pay their retail 13 customers rebates in certain scenarios; correct?</p> <p>14 MR. BUEKER: Objection as to form.</p> <p>15 MS. CICALA: Let me -- let me rephrase 16 the question. Let me rephrase the question.</p> <p>17 Q. Can you envision any scenario where the 18 -- where the net sales price to retail pharmacies 19 is less than a net WAC -- WAC as a net price, not 20 as a list price?</p> <p>21 MR. BUEKER: Objection as to form.</p> <p>22 You can answer if you understand the</p>

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